



Subject: Fiscal Year 2019 Enrollment Limitations

Dear Provider:

This notice contains information on rate enhancement enrollment limitations for the following programs:

- Community Living Assistance and Support Services (CLASS)
- Day Activity and Health Services (DAHS)
- Deaf Blind with Multiple Disabilities (DBMD)
- Home and Community Based Services (HCS)
- Intermediate Care Facility for Individuals with an Intellectual Disability or Related Conditions (ICF/IID)
- Nursing Facilities (NF)
- Primary Home Care (PHC)
- Residential Care (RC)
- Texas Home Living (TxHmL)

You are receiving this information because your contract's or component code's (for HCS/TxHmL and ICF/IID) enhancement level for fiscal year 2019 (effective from September 1, 2018 – August 31, 2019) will be limited to the level it has achieved on its most recently audited 2016 Accountability Report, 2017 Accountability Report or 2016 Cost Report functioning as an Attendant or Staffing Compensation Report.

As per Title 1 of the Texas Administrative Code (TAC) §355.112(u) or 1 TAC §355.308(i), a provider or facility will not be enrolled in the attendant compensation rate enhancement or enhanced direct care staff rate at a level higher than the level it achieved on its most recently available, audited Attendant Compensation Report or cost report functioning as an Attendant Compensation Report.

ENROLLMENT LIMITATION

A list of all contracts or component codes receiving an Enrollment Limitation notice is posted on the Health and Human Services (HHSC) Rate Analysis Department (RAD) website at:

<https://rad.hhs.texas.gov/long-term-services-supports>

Select the applicable program from the list of services in the left margin. Scroll to the bottom and click "View 2019 Rate Enhancement - Attendant Compensation Information." This page contains all of the important documentation related to enrollment. Scroll down until you see "View Contracts Receiving Enrollment Limitation Letters." Lastly, click on the program list for the contract that you wish to search for.

For Primary Home Care, it is important to review the Enrollment Limitation List to determine whether the limitation applies to your Priority and/or Nonpriority level.

For Home and Community Based Services and Texas Home Living, it is important to review the Enrollment Limitation List to determine whether the limitation applies to your Day Habilitation Services and/or Non-Day Habilitation Services level.

For Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions, it is important to review the Enrollment Limitation List to determine whether the limitation applies to your Day Habilitation Services and/or Residential Services level.

As per 1 TAC §355.112(y) or 1 TAC §355.308(q), if at any time, you determine that your contract will not be able to meet its attendant or staffing compensation requirements, you may request a reduction in your participation level and associated rate add-on and requirements. These requests will be effective on the first day of the month following approval of the request.

REQUESTS FOR REVISION

As per 1 TAC §355.112(u)(1) for Community Care, HCS/TxHmL and ICF/IID providers or 1 TAC §355.308(i)(2) for nursing facilities, a provider or facility may request a revision of its enrollment limitation if it's most recently available, audited Staffing and Compensation Report or cost report

functioning as its Staffing and Compensation Report does not represent its current staffing levels.

Such a revision is requested by submitting a fiscal year 2019 Request for Revision Report (RFR). These reports and associated instructions are available on the HHSC RAD website linked above. Once you enter the website, click on the link to your program, then scroll down to the heading "Rate Enhancement – Attendant Compensation", click on "View 2019 Rate Enhancement – Attendant Compensation information". Under the heading "2019 Enrollment Limitations Information open the "2019 Request for Revision Report" and the "Instructions for 2019 Request for Revision Report" elements.

The following requirements apply to all RFRs. Submissions that do not meet these requirements will not be considered and the enrollment limitation will apply. Only contracts receiving an enrollment limitation may submit an RFR.

1. Health and Human Services Commission (HHSC), RAD must receive a properly completed fiscal year 2018 RFR no later than July 31, 2018. Providers must properly complete the RFR online. Submissions by mail, hand delivery, or fax will not be accepted. Instructions on completing the RFR are available on the website above.
2. The RFR Report must be completed by an individual legally responsible for the conduct of the contract or legally authorized to bind the contract, such as the sole proprietor, a partner, a corporate officer, an association officer, a government official, a limited liability company member, a person authorized by the applicable Texas Health and Human Services (HHS) Form 2031 for the interested party on file at the time of the request, or a legal representative for the interested party. The RFR may also be completed by an individual designated by the interested party who has successfully completed a HHSC-sponsored mandatory training for the 2017 Cost Report webinar training session.
3. The RFR must show that, for the period beginning September 1, 2017 and ending April 30, 2018, your contract met a higher attendant compensation level than the enrollment limitation. In such cases, your contract's enrollment limitation will be established at the level supported by the RFR results.

4. If the results of the RFR indicates a lower level of attendant compensation than the enrollment limitation, then the limitation will apply.

INDIVIDUAL VERSUS GROUP PARTICIPATION

For an entity, commonly owned corporation, or combined entity that controls more than one participating contract, compliance with the spending requirements can be determined in the aggregate for all participating contracts controlled by the entity, commonly owned corporations, or combined entity. One RFR may be submitted for the entire group or one RFR for each individual contract. The result of the analysis of an RFR completed for a group will apply to all contracts included on the RFR.

SUCCESSOR LIABILITY AGREEMENTS (Nursing Facilities Only)

If your facility has undergone a change of ownership where the Health and Human Services Commission (HHSC) has approved a successor-liability-agreement (SLA) that transfers responsibility from the former owner to the new owner, your completed fiscal year 2019 RFR form may include units of service, staff hours and expenses from both the facility in effect prior to the initiation of the SLA and the facility in effect after the initiation of the SLA.